

Salus Populi, &c.  
OR THE  
C A S E  
O F  
King and People.

Modestly Handled, and Impartially Stated,  
very useful for these distracted Times.

Seneca de Clem. l. i. c. 4.

*Tamdiu a periculo aberit populus, quamdiu sciet ferre franos, quos  
si quando abruperit, vel aliquo Casu discussos reponi sibi passus non  
erit, Hac unitas & hic maximi Imperii contextus in partes multas  
dissiliet, idemque huic Urbi Dominandi finis erit, qui parendi fuerit,  
ideo Principes Regesque &c. non est mirum amari ultra privatas eti-  
am Necessitudines. Ille (Rex) Vinculum per quod Respub. cohaeret,  
ille spiritus Vitalis quem hac tot millia trahunt, nihil ipsa per se futura,  
nisi onus & prada, si mens illa Imperii subtrahatur,*

Rege Incolumi, mens omnibus una,  
Amisso, rupere Fidem. Virg.

*Ita se induit Reip. Caesar, ut diduci alterum non possit sine utriusque  
pernicie, nam ut illi viribus opus est, ita & huic Capite. Sen. ibidem.*

L O N D O N,  
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# Salus Populi, &c.

OR,

The CASE of KING and PEOPLE.

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**T**He Question is, *How Rightly and Truly to Understand the Natural and Genuine meaning of that Popular Position or Maxim, Salus Populi Suprema Lex,*



Some Years since, Certain Men, who had little or nothing else to do, forg'd and brought into the Kingdom a new Modell of Politie, as before they had brought into the Church a new *Systeme* of Divinity; Men, who have indefatigably labour'd as under the pretext of Christian Liberty, (Vulgarly called Conscience)

science) to weaken the Power of all Church Government ; So under the pretence of Civil Liberty, (other-wise nick-named the Liberty of the Subject) to Undermine and Overturn the very Foundations of our Political Government.

If any presumed to charge those Disturbers of the Publick Peace with their Affronts upon Majesty, their contempt of the Laws of the Land, their factious Breach of the Civil Peace, their wild and Intolerable Tyranny, which madly broke down all the Fences and Bounds of Ecclesiastical Lawes, their Unjust Affectation of Parity, and other Anabaptistical Incroachments upon the State, those Wilful Incendiaries defended themselves and their Indefensible Proceedings, and warded off all blowes with this (as they thought it) Impenetrable Shield, this *Salm Populi*, &c. preferring the Authority of this Sentence to all Authority of Lawes, Kings, Priviledges, and Customs whatsoever.

By their Loose and Dangerous Interpretation hereof, when not only a Wicket, but a great Back-Door is opened, and a Monstrous wide Gap for Tumults, Seditions, and all manner of Popular Licentiousness to throng in upon us, it is but too Obvious, That whoever they be that strive to Excuse their Villanies with this Aphorism, Either they Know not, or they Like not if they Know, the true simple Genuine meaning of it; but would fain introduce and Impose another, drawing it in by Head and Shoulders, to countenance and cloak their malicious Designs, and  
to



to favour *their Good Old Cause* how really bad forever.

For, What more Easie then for one or more that are Inclined (thro any, the Immoderate Irregular Passions of Ambition, Covetousness, Hatred, Wrath, Envy, and the like) to rebel, and at the same time set on foot and start Innovations and Discontents in the State, to Colour all his or their private purposes with *this Salus Populi*? Search all the Annals and Records of Antiquity; Peruse all Historians, Old, and New, Sacred and Profane, Forraign and Domestic, and you Will find such things Acted Over and Over again, under this stale pretence of *the Safety and Liberty of the People*, by all *Traytors and Rebels* of all times and places in the World; so that he may well pass for an Ideot, or but few degrees removed from a Bedlam, who shall suffer himself to be again Imposed upon by pretences of this Kind.

But to the subject, and that the sense of the Proposition may be made indisputably clear, we will reduce it to its Principles, or simple Terms, Examining these single and apart: And first comes to be Considered the signification of the Word *Salus*, or *Safety*; To understand which the better, give me leave to suppose, That a man fancy or perceive his Honour or Liberty endanger'd in a matter of small, or (it may be) in a business of very great Importance, it were Folly or Weakness in such a person instantly and Importunately to cry out, that he had perfectly lost his Health or Life; for it is not a little inconsiderable Hurt, or Wound, or Bruise, which is Opposite to or

destructive of a mans Well-being and Life, but Death as the *Greeks* rightly oppose Destruction to Salvation, Τὴν Ζωὴν πρὸς τὴν ἀπώλειαν.

The Thing bears great resemblance in the Body Politic or the State, as in a single Body; by reason of the Contest of Contrary Qualities in a man's Body thro' the Predominancy of Inward Heat or Cold, and those Various Accidental changes from without, it is a thing Utterly impossible that a man should always enjoy such Entire and Perfect Health, as to be ever free from those Distempers which now and anon affect this or that part, or member of the Natural Body. Again, it is possible that the Gout, or Toothach or Stone may Create and cause in such a man very sharp acute Pains, Distempers, and Aches, which Affect one part only, or he may keep his Bed, being sensibly Afflicted all over his Body, not one part free; yet Under such hard Circumstances the same person in Common Prudence may not judge it *convenient or seasonable*, much less *Absolutely necessary* to betake himself to *Desperate Remedies*; as if not only his habit of Health, but his very Health it self were in Apparent and Manifest Danger.

Agreeably in the State or Body Politic, Prudent Men will not Instantly commit a Rape upon the Laws, and fall foul upon Established Ordinances; nor ought any man to stir up the Rabble into Mutinys, and Tumults, much less Drum and Trumpet the Porters and Apprentices into open Rebellion; upon Complaint made, or a single Grievance suggested by this or that Popular petty Officer, or the pleasing Harangue of this

this or that Rhetoricating Demagogue, whose *Interest* it may be at the same time to animate the People into Commotions, and Insurrections; to which end they shall never want one pretended Misdemeanour or other to Accuse and Arraign King, Nobles, Governours, Judges, and Magistrates of the Realm, for Infringing the Laws, for Delaying and Prolonging Clients Causes and Suits, for neglecting their respective Duties in one Particular or other; When at the same time to a man with half an Eye it is apparent enough, there ever was, and ever will be under the Best of Kings, and the Best of Governments, Oppressions of the poorer sort of Subjects, and other Grievances not a few, resulting from the *Corruption* of Men in Power thro' the *Abuse* of their Authority; to prevent or Cure which *perfectly*, All Imaginable Care of Kings, and Industry of Great and Unbias'd men, and the severity of Lawes themselves, (*tho' never so strict and rigid*) are not sufficient.

Now if upon the Discovery of such a Knave in Authority, if upon sad Experience of such an Act or Acts of Injustice, factious Men shall conclude themselves sufficiently Authoriz'd, and free in Contempt and Defiance of Lawes, to mutiny under pretence of promoting the *Public Safety*, or of their own head to set things to rights without the Leave or Consent of their Superiors; Then Kingdoms and Commonwealths will be most Assuredly pester'd with Rebels under the name and in the notion of most blessed Reformers Eternally. Christ foretold Mankind, *Luc. 17.1.* that it is Impossible, but that Offences will come; and the

the Apostle *St. Paul* hath told the World, *1 Cor. 5. 10.* That if men have not patience to brook now and then particular Injuries, then they must ee'n Leave the World, and go Look out some new *Atlantis*, or an *Utopian* Countrey, or a *Platonian* Republic, where his Laws are duly Executed, for in this Rigorous sense no man will ever find this Supreme Law fulfill'd in this Known and Habitable part, as namely, That the Safety of the People is so to be Interpreted, that *no Subject whatsoever*, no not the *Poorest*, the *Weakest*, the *Meanest*, may be injured or wronged by such as are his Equals or Superiors in this World. No doubt the Unreasonableness of such an Interpretation clearly appears to every man of Common Reason, and that the Public Safety is then sufficiently intended, when our Governours, (whose Interest as well as Honor and Duty it is to protect the Kings Subjects, and to provide Seasonably and Effectually for the Security of all and every Individual person) shall by his Providence and Care prevent the Dammage which would else befall the Nation Unavoidably by the Invasions of Forrein Enemies, or the Depredations and Plunderings, or Robberies and Violences of Home-bred Domestic Villanies.

Thus far concerning the True Meaning of the Word *Safety*.

In the next place let's Enquire into the meaning of this Word (*People*) and how rightly to understand it in this business. The People is (as *St. Augustine*, *De Civ. Dei*, l. 2. c. 21. defines it out of *Cicero*) a Number

ber or Multitude of men living under the same Laws, helpful to, and helping one another for the mutual benefit of the Community; by this Word (*People*) the *Roman* Citizens of whatever Order or Degree were formerly known, who consisted of *Three Ranks or Orders*, (not now to mention Monarchs, whether those Kings who *at first*, or those Emperours who *afterwards* govern'd *Rome*.)

The First were the *Patritii or Senators*. Secondly, the *Gentry*. Thirdly, the *Vulgar and Inferiour sort of people*; Now to be able to judge, and infallibly apprehend, in what sense the *Roman* Authors use this word *people*, the Reader must diligently heed the Context, (if I may so speak without offence) or the adjoining Circumstances, which will be a very Easie matter to him that regards the Opposite Terms as they are by such Writers laid together and Confronted; This is a certain never failing Rule to find out the true signification of this word *People*, in *Roman* Authors, by whom it is used three manner of wayes; Primarily, (tho' very rarely) for the Inferiour and Meaner sort of the People; So the Poet meant in that Distribution or Division, *Dat Populus, Dat gratius Eques, Dat thura Senatus*,

*The Senate, Gentry, and the People all;  
To Jove give Thanks, him God and Saviour Call!*

Where the *people* standing in Opposition to the Senate, or Lord, and the *Gentry of Rome*, must and can signify no other, but the *Mechanic*, the *Vulgar sort of Inhabitants*. Secondly,

Secondly, this word *People*, in *Roman* Writers, doth sometime denote the Two Inferior Orders of *Romans* Unitedly in contradistinction to that First and Highest Order of Lord, and Nobles or Senators. To make this Evident beyond all contradiction, we are to understand,

That upon the first Erection of a Commonwealth in *Rome*, which was effectually brought about upon the Expulsion of their Kings who first govern'd *Rome*, the Fathers or Senators reserved to themselves a Pre-rogative over and above their Fellow Citizens, and were careful for a standing Testimony of their Superiority, to have themselves known and Distinguished from the Common Herd by a Title of Honour peculiar to themselves, Witness those solemn Formal Prefaces to all their Ordinances and Constitutions, *So it pleased the Senate and the People of Rome; and the Senate and People of Rome have Decreed so and so, &c.* In which form of words this Term *People*, comprehends as well the Gentry, as the Common and Ordinary people of *Rome*, Excluding onely the Senators or *Patricii*, the Greatest Persons there.

Thirdly, this word, *People*, signifies in *Roman* Writers, all the *Roman* Citizens of all and any Order or Rank whatsoever, Senators, Gentlemen, Commons or *Vulgar*, without Discrimination; for upon the Exclusion of Kingly Government, and before the Emperours came in place and play, and by their Power Establish'd a second Monarchy over them, *Rome* consisted of Three Orders, now when *Roman* Authors speak of Conser-

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ving *Safety, Dignity or Majesty of the People*, we must ever Apprehend them in this sense, That in that Interval of Monarchical Government which happened between the Kings and Emperours of *Rome*, it continued a Popular State.

I have dwelt upon this the longer, not onely because the Proper sense of words depend upon the Use of that people from whom the words themselves have been handed over to us, but also for two other special Reasons, *The First*, Lest we should be Seduced and Trepan'd into Error by a wrong Version of any Ambiguous word, doubtful in its self, and capable of Divers Constructions. *The Second is this*, Lest by the bare sound of the word *People*, any Injury should Accrue to him who is in truth *the Chief of the Community*, and *the Head of the People*: both which Reasons of what Importance they are in our present Inquiry, will be better understood by what follows.

This then I first Affirm, That the Word (*People*) as all other words importing an Aggregate Number, may be understood two wayes.

Either *Collectively*, so as to denote the whole Entire Community of the State or Kingdom, (viz.) *the King and Subjects together*, or *Distributively and Separately*, to signify the Subjects onely and apart by themselves without the King, as the word *Body* sometimes signifies *Head and Members United*, sometimes the *Members Abstracted from the Head*, which is the most Considerable, the Highest, and most Principal Member of the Body National.

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Or the word *Family*, sometimes comprehends all and every Domestic, as Wife, Servants, Children, and the Master of the House who governs the rest; sometimes onely the Governed, for whose Welfare it is the Master's Duty and Care to provide what is Requisite: So the word *Army*, now and then signifies the General and his whole Regiments together, sometime the Body of the Army without respect to the Head or Commander in Chief; Thus in the words *Kingdom*, *Parliament*, and others of that kind, which imply an Aggregation or Accumulation of many with regard to One Head or Chief Man or Governour.

Let these things be duly considered, and then let any such considering man judge, whether it be not consistent with good Reason to conclude it an *Act of Malice* (a Dangerous one all the World must grant it to be) to wrest that word which denotes the whole Community inclusively, *King as well as Subject*, and to Accommodate and Attribute it solely and wholly to the Subject in the Later Acceptation thereof, (*viz.*) to the People alone, *Excluding the King who is the Principal Member of this Body.*

#### Objection.

But should this be granted, how shall men be able assuredly to Know, and Infallibly to Conclude, That in this Aphorism before us, *Salus Populi*, &c. the word *People* is to be Understood in the former Sense, that is Collectively, and not in the latter and Abstracted Consideration or Construction?

*Ansiv.*



Answer.

I answer ; By the *Common and Usual*, the *Familiar and Ordinary Use of the word*, and the Analogy or Resemblance of other words of the like sense parallel to it ; and to this purpose take this for a never failing Canon an Unerring Rule in the Interpretation of Words, *That Collective words are ever to be taken Collectively*, unless another or more words conjoyn'd with it alter or restrain the Natural Latitude thereof ; As for Example, *Col. 1. 18.* Christ is the Head of his Body the Church, it is evident here from the word *Head*, conjoyn'd in the Text to the word *Body*, that the word *Body* is to be Interpreted *Discretively*, for the rest of the Bodily Members Separately and Abstractedly from the Head. So if a man should express himself thus, *The General* hath Remanded, or Countermanded his *Army*, and Commanded them into Winter Quarters, or the *Master of the House* hath strictly forbidden his *Family* not to stir out of his Doors within Night ; Or as it is said of *David*, That whatsoever the King did, that pleased the *People* ; in such Instances it is plain by the Adjoyning words, *General, Master of the House, King*, that those Collective words, *Army, Family, People*, are not *Collectively* to be Understood, but *Discretively and Exclusively*, that is, that by *Army* onely, the Souldiers are Intended without their *General* ; by *Family*, are meant the *people of the House*, without intending the *Master* among them ; by the *People*, is intended the *Subjects onely*, not the *King and his Subjects together*. And the Reason is Obvious, be-

cause the word *Army*, that is added by way of Opposition, and which is one of the Correlatives in that Discourse doth necessarily Imply, That the Collective word answering to it, and Relatively opposing it, doth contain its Correlate in an Abstracted notion, that is the *Multitude alone* connected and conjoyn'd to it as its *Original and Head*, not the *whole Community Compounded* (as it were) *of both the Correlative Terms.*

But where this Opposite Term is not Expressed and Added, (which when it is Express'd, doth restrain the meaning of the word necessarily to one part of the Relation,) it is very Unreasonable to Interpret a Collective and General word otherwise than Collectively and Generally in its just Latitude and natural Extent of signification, so as to comprehend both the Relative Terms within the compass of its meaning or signification, specially when the Discourse is about that Safety or Profit, that Good or Conveniency, that Affects and Concerns both Parties intended by both those Terms; This is a little obscure to men of mean Capacities, but the following Instances will make it clear: For Example then, If an Order should come to the *Army* to remove their Quarters Immediately, Least otherwise the Enemy should beat them up; Or an Order that Corn should be instantly housed for the better support of the *Family*, he were a very fool who would now conclude by such words were onely designed the Safety and Preservation of the *Common Soldiers and Inferiour Officers*, no Care or Respect being had to the Security of the *General*; or in the next Instance, that the Order respected the Support and Nourishment

ishment of the Wife, the Children, and the Servants of the House, but intended not the Support of the *Master of the House*, who is a Husband to the Wife, a Father to the Children, and a Lord and Master to the Servants, and for such Reasons ought principally to be Minded and Provided for among the first of the Family; Otherwise this would much resemble his case, who being under the Doctors hand, and by him being advised to have a very special care of his *Body* for the future, should hereupon diligently intend and take strict care, that his Breast, and Stomach, his Thighes, and Legs, and Feet, should receive Ease and Refreshment, and Comfort, and at the same time sottishly and stupidly neglect all Necessary and Due Care for his *Head* which is the *more Worthy and Noble Member*, because his Physician in his Prescriptions or Rules mention'd his *Body onely* in general, but did not in particular name his *Head*.

But to come yet closer to the Point in hand, Suppose a party of Common Souldiers should affirm the *Safety of the Army were the Paramount Military Law*, that their General ever commanded them out upon duties so Difficult and Dangerous, that except they instantly shake off his Yoke, and curb his Power, it is Odds if the precious Liberty of the whole Army be not Eternally Lost beyond recovery, and upon such a supposition taken up of their own head, this Party should Cabal and Combine to Vindicate their beloved Liberty, and to Assert it by force of Arms, Animating one another not onely to disobey the future Orders of their General; but in case he will not tamely see his Authority

thority slighted, or sneakingly consent to have it transferr'd (they call it return'd) upon the whole Body of their Party, then by the general and common Vote let him be Assassinated for his obstinacy. Or Secondly, Suppose a parcel of Household Servants, whom St. Peter, 1 Ep. 2. 18. requires to be subject not onely to Good and Gentle Masters, but also to the froward, yet in Defiance of such Spiritual and Scriptural Truths should lay their Heads together, and Unanimously resolve to obey their Master no longer, but to turn him out of Doors, and by vertue of their own Authority to give him a Bill of Ejectment out of his own house as a Tyrant, and hereupon should secure the Keys and Locks, and the Rich Furniture of his house, and after this Insolence yet proceed to Distribute and Divide among themselves all his Personal Estate according to their own Supreme will and pleasure, and then in Defence of themselves, and in justification of such Inexcusable Proceedings, should Impudently plead *this Catholick and Fundamental Statute, (viz.) that Salus Populi, the Welfare of the Family is the supreme Oeconomical Law.* What Man of Common sense would not confess such Villanous practices were not deducible from that Principle, which (rightly understood) is very True and very Advantageous to the Whole Army, and the Whole Family? yet One Egg is not more like another than their way of Arguing, (or Acting) who colour their Civil Seditions with that stale pretence of the *Safety of the People*, as if the Safety of the General were not included (and that after an Eminent manner, and in an Extraordinary Degree) in the Safety of his Army, the Security and Welfare of the Master of the House  
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in that of his Family; that of the King in his People's Safety. To be short, *it must be, and is confess'd, that the Security and Prosperity and Peace of the King and Subject is in Truth the Supreme Law, but the Security and Prosperity of the Subject without Provision made for that of the King, is not that Law.*

Secondly, I affirm yet farther, tho I think I have fully prov'd it in what goes before, that by this word *People* in this Maxim, *neither the Subject without the King, nor the King without the Subject ought separately to be Understood*; yet I add, That who so seriously and soberly considers the *Dignity or Quality of the Persons concerned*, or reflects upon the Original of this Axiom, upon a deliberate consideration he cannot deny me this, (and some will wonder at it, no Doubt) that this Noted Maxim *respects more and provides rather for the Security and Welfare of the King, than of the Subject*, if men are resolv'd to Understand it no otherwise but in that Abstracted abused signification. For,

First, the Primitive and Ancient Fathers of the Church (*even then when there were yet no Christian Kings, when Pagans governed the World*) generally acknowledged *Royal Majesty to be Sacred*, they reverenc'd *their Insidel Kings as Immediately next to God himself, as his Vicegerents and Deputies*, they made their Daily Vowes and offered up their solemn Prayers to Almighty God for their Safety, their Prosperity, their Long Life in this World, they yet instructed their Respective Charges in this Truth, That *their Safety* mainly depended upon *the Safety and Welfare of their Empe-*

*your or King thō an Infidel and a Heathen*; and this they inculcated with greater Assiduity, because they perceived *Almighty God himself* requires no less in divers places of Holy Writ, as might Easily be proved if it were needful in so plain a matter; which no doubt is the reason, that *Good men were ever and are still of this Temper and Disposition, this Mind and Affection, this Perswasion and Judgment*, that in Dubious and Dangerous Cases which concern the Public good, it is far more Conducibile to *the Common Interest*, to *save the single Life of the King*, than *many Thousands of his Subjects*; This those Loyal Israelites (who preserv'd their Allegiance unblemish'd in that Execrable Rebellion of *Absolon*) openly avowed and profess'd in the face of the World, and to their Immortal Honour it is recorded for a Rule to Posterity and succeeding Ages, *2 Sam. 18. 3. But the People Answered, Thou shalt not go forth: for if we flee away, they will not care for us, (or set their heart on us,) neither if half of us die will they care for us; but now thou art worth Ten thousand of us &c.* They Intended thus much who called their King (thō none of the best) *the Breath of their nostrils*, not in a way of Sycophancy or Flattery, or for personal Ends and particular Interest, but taught such Expressions by the True and Impartial Spirit of God; thus the holy Prophet *Jeremiah* spake, a man sanctified from the Womb, *Lam. 4. 20.* Using a very apt and proper Metaphor, for that breath we suck in and send out by our Nostrils, is that Vital spirit of Life which doth bind Soul and Body together (as it were,) when it ceases to Inspire and Operate, the Living Creature ceases Immediately to be such, it Expires and Dies instantly, *Psal.*  
 146. 4. Let



Let it be once more observed, That this Maxim which has made, and still makes so great a noise in the World, was derived to us from the *Romans*, a Maxim then most in request when that Government was *in the hands of the People*, the whole Civil Jurisdiction was in the People, the Supremacy was Lodged in the Multitude, not in King or Emperour, or any Single Person or House of Lords and Senators; whence it comes, that in the Historians of that Age or Time, and particularly in *Cicero* we meet with so frequent mention of *the Majesty of the People of Rome*, as being then a meer Democracy. But in a *Monarchy* all the Laws and the Determination of Ambiguous clauses and dubious phrases in Laws, all Jurisdiction, Supremacy and Majesty are invested, *not in the People, but in the King or the Monarch*; see then what *the Safety of the People* imported to that People who held the Reins of Government in their own hands, which they sufficiently intimated in & by this Maxim *Salus Populi* &c. the same should *the Safety of our King* import and signifie to us who are Govern'd by a *Monarch or Single Person*. Of the same value if we be but as zealous in the Defence of our Lawes by the Authority of this Aphorism (saving always (as it is reasonable and meet) the Analogy in such Different forms of Administration) of the same Value, I say, *the Safety and Security of our Sovereign* ought to be held among us, who do Unanimously Own and Acknowledg, and by the Laws of the Land are Enjoyn'd to own and acknowledg *the Majesty of England to be invested, not in the People, but in our Supreme Civil and Political Head the King.*

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And by this time from the Premises I judge it abundantly plain, that there is not, either in the word *Safety*, nor the word *People*, that Force and Energie as may serve to justify the wresting this Law to the prejudice of our King: who so will add to these Premises the remaining words *Suprema Lex, the Supreme Law*, and rightly interpret them, they will find that scarcely any thing could have been said *more strongly and Nervously* to Assert and Establish the Sovereign and Indisputable Power of Kings.

For this Mode of Speech, The Supreme Law doth truly and necessarily suppose a Supreme Power, and it is consonant to the highest and best Reason, that in all Governments there should be a Power somewhere lodged that is Superiour to all humane positive Laws, to which Power (where ever 'tis found) it appertains to provide, and by its authority to procure, that the Commonwealth receive no damage, either through any deficiency on the one hand, or through any rigorous observation of Laws on the other, the reason whereof is evident enough, because the most prudent and politick of Governours cannot foresee all casual uncertain circumstances and accidental events that may happen in time to come, nor fore-arm himself sufficiently by good and wholesome Laws at present, so as nothing shall fall out in his Government, or that of his Successors, inconvenient or prejudicial to himself or People, or both; which if it should happen it may come to pass not through any default or defect in the Laws, or the Law-maker, but (as Aristotle well observ'd heretofore) from the nature of those cases which



are to be bounded and circumscrib'd by Laws, which being for the variety indefinite; (I had almost said infinite) and because depending upon futurity very uncertain, it's utterly impossible to confine them all within the compass of certain and determinate Rules at first, so that that Law-maker hath abundantly answer'd his duty, who hath Enacted and passed such Constitutions as are *for the most part* just and generally profitable and advantageous to the whole Community; altho it may and frequently doth come to pass, that those Constitutions prove short and defective through one sudden accident or other in this or that particular case which was not or could not then be easily foreseen; in which case if there be not reserv'd to One a Liberty and Power to exercise a certain kind of arbitrary Government, it is impossible to find out an effectual remedy whereby to divert that storm which may threaten the whole Country or Commonwealth, and as impossible to consult and really promote the Publique Safety. This is that which the subtlest and most politique Heads ever approv'd, and the best Reason still allows, *That Legal Justice ought to give place to Equity when and as oft as Necessity shall so require.* Equity being (according to Aristotle's definition) nothing else but *νομίμω δικαίω ἐπανόρθωμα*, the amendment, the correction, the mollifying or abatement of strict and legal Justice, or of the Law it self, (as the same Philosopher presently Explains his own words) *Ἐπανόρθωμα νόμου ἢ ἐλλείπειν διὰ τὸ κατὰ λυ*, supplying its defects in particular cases, wherein the reason of its great latitude and generality of expression it happens to recede from Justice or the Publique

good; for it is necessary that Laws be Enacted in General terms with respect to what *ordinarily* happens, not to every particular case that *may* occur in the Lives and dealings of Men; To some of which the Law-maker should endeavour to adapt the letter of the Law so as the words might reach particular cases in futurity, it would be impossible so to word those Laws but they would be found at last by sad Experience to dissent either from *Moral Justice* or the *Publique Good*, or both.

This then being granted, that the safety of the people, that is, the Publique good doth require, that there be in the Common wealth a certain *Power Superiour to the Laws* to supply their defects, it necessarily follows, (what *Aristotle* has affirm'd in his Politiques) that this supream Paramount Power appertains to *him* only who presides over the rest and in *whom the Sovereignty is vested*, whether it be in *one* as in Monarchical Government so as *here in England*, or it be in *many* as in other Countries, *Holland, Venice &c.* And now let's soberly consider, if it be reasonable or fit that *Subjects* under the pretext of *publique Liberty* or *the publique Safety* may with their Swords cut in pieces the Gordian knot of the Laws and their Allegiance, & with a Luciferian Pride, a Wild Fanatick insolence trample under foot the Majesty of Laws and Kings together, and having so done in maintenance of such inexcusable villanies produce and plead the Authority of *this Axiom*, encouraging one another in their Conspiracies, and Seditious Plots, upon the Establiſh'd Government, and congratulating their impious and unjustifiable

fiable Succes by the Authority of this saying *salus populi*  
*&c.* it seems strange to me that men donot understand  
 how in this Axiom is implied, that the *supream*  
*Magistrate hath a certain kind of power over the Laws*  
*themselves*, a power *so extensive and unlimited* that he  
 may (as oft as necessity requires it and the present dan-  
 ger will not admit delays) for the defence of him-  
 self and Subjects from the suddain incursions or in-  
 vasions of Foreign, and the Villanies of domestick  
 Enemies *by his Prerogative and the fulness of his power*  
 for a while *dispence* with the severe and literal obser-  
 vation of his Laws; or at least *suspend* their force for  
 a time, least by a zealous and unseasonable veneration  
 for, and obedience to them he suffer himself, his peo-  
 ple, and the very Laws themselves, to become a  
 Prey to Forreign or domestick Enemies. I shall not  
 at present meddle with that Quere whether the  
 King be free from all obligation to those Laws which  
 were made or confirm'd by himself, approv'd by the  
 consent of his people, and afterwards generally re-  
 ceived by all, and how far he is obliged (*ordinarily*)  
 to observe them, I shall consider this another time.  
 At present let's see, if the Sovereign may in any case  
 wholly Extraordinary, and absolutely necessary for the  
 good of his Subjects undertake or Attempt any thing  
 beside the meaning or against the plaine purport and  
 Letter of his Laws.

That he may in such a Case Undertake and At-  
 tempt and Act (and that with a safe Conscience) is  
 plain from the clear Histories of the Best of Kings in  
 all nations whatsoever all the world over.

Secondly,

*Secondly*, It is agreeable to the best reason because of the Imperfection and Defect of Laws in general, and the multiplicity and Uncertainty of future Events particularly, as was shewed above.

*Thirdly*, What the Prophet *Samuel* discoursed about the Power of Kings abundantly confirms it, *nor can that well be Interpreted otherwise tho' some have even Attempted that*, 1 Sam. 8.

But that no doubt may remain to create further scruple & Disorders in mens minds upon this account, and about the subject under Consideration, I will beg leave to reduce this *Darling, this beloved Principle* to it's Original, and doubt not to prove to the satisfaction of such as are all moderate in their perswasions, and any whit sober under their *Prejudice*, and prepossessions, *that the Pursuit and Purchase of the Publique Safety without reflexion upon or regard to the Laws, depend upon the sole will of the King, no manner of way upon the pleasure of the People*. If I prove not this by the authority of this very Axiom let me pass for an *Impester* and be universally branded for a betrayer of my cause, one of the best causes in the World, and for a Prevaricator and Traytor to my Country and the Liberties of it.

I have shew'd before that we receiv'd this Axiom from the Romans, I now proceed and add that (according to the best of my Knowledg) the first place where it is recorded is in *Cicero's 3d. Book de legibus*, yet borrowed (as *Cicero* himself confesseth) from the ancient Statutes of that Nation, and by him transcrib'd without the least variation in the very words of those  
ancient

antient Statutes. *Cicero* then having in his former Book recounted and explain'd the Laws appertaining to Religion and the worship of their Gods ; in his 3d. Book proceeds to enumerate such as belong'd to the Civil Magistrate, where among divers other periods he inserts these, (and I pray let them be minded with all becoming diligence ;) *Regio imperio duo sumto, iique præeundo, judicando, consulendo, Prætores, Judices, Consules appellantor, Militiæ summum jus habento, Nemini parento, Ollis salus Populi suprema Lex esto.*

*Let two persons govern this Kingdom (viz. that of Rome) let them bear the name of Prætors because they are to go before the People, let them be stiled Judges because they are to Judge and determine the suits and controversies that happen among the people, Let them also be named Consuls, from that Advice and Counsel which is expected they should give their inferiours and Subjects, let these persons have the Right and Power of the Militia at their Command, let them be Subject to none, accountable to none, let the safety of the People be to them the Supream Paramount Law.*

To them? who are these *them*? to whom doth this Pronoun *them* refer? to them beyond all controversy who were endowed with imperial or regal authority, to them who had the power of the *Militia* in their hands, to them who acknowledged no Earthly Power above them to controul or over-rule their actions, that is to both the Consuls, who although according to the constitution of that Government they

they were to govern but for a short & determinate time, for a year only, yet they were impower'd for that year to Govern that Proud City and the whole *Roman Empire* without any *Co-ordinates* or *Co-equals* much less *Superiors* or *Protectors*.

Come now all you that are Patrons and Abbettors of the Common-wealth Party, well withers to Democracy, read and read over again these Entire sentences, examine every clause, weigh every Syllable, point, tittle, with the greatest exactness and the strictest care, tell me if you can find here the least tract or print of any Power granted to subjects *without the consent or command of their King* either to project or act in contradiction or disobedience to the Laws of the King, or to conclude or determine about the *safety of the people without his leave*; doth not the whole tenor of Cicero's discourse (words and matter) tend to this purpose, to prove that that *Supream Authority which is above all positive Law, and consequently that the whole care of the publique Safety belongs properly and primarily to him in whom the sovereignty is Lodged, whose is the right of the Militia, and that power paramount which renders him subject and accountable to none but God alone*, that which *Aristotle* also affirms whose Judgment I therefore produce to shew the harmonious consent of the Two Greatest Writers in the two Learned Languages upon this Point;  $\Delta\epsilon\tilde{\iota}\ \tau\tilde{\iota}\ \text{Ἀρχοντα, ἂν τι εἴς, ἂν τι πλεῖς ὦσι.}$  &c. It lies in his Power that rules the Common-Wealth, whether it be one as in a Monarchy, or whether they be many as in Aristocracy or Democracy, *it lies in his power who bears the chief Place to establish*

Arist. Pol.  
l. 3. c. 2.



stablish and determine those matters which the Laws in being have not accurately, (that is) in particular cases defined and determined, because it is a very difficult, if not an Impossible thing to foresee and provide effectually against all singular Events and particular Circumstances in general words and at one time.

*Objection.*

Here certain men may be apt to suggest, that the case of Subjects is unreasonably hard, if the safety of all so depend upon the Will of one man, that none besides him may labour to secure the Publique good thô in eminent danger, for what if upon the suddain before men are aware of any Trouble, matters be arrived to such a pitious condition as will not admit of a days respite or delay for Consultation, or the Royal *Fiat*, the King at the same time being (it may be) absent so far from home as will require divers days time to attend him and speak with him, in such a Case while the Subjects post to learn his pleasure, while they stay in expectation of his Orders and Commission, computing also the time their return will necessarily take up, *their All, Common-Wealth and all is ruin'd and undone.* This will be the unavoidable consequence if it be absolutely necessary in such distance of place, such streights of time, to wait the Kings consent and Command, and men may not attempt or Act without it.

E

*Answer.*

*Answer,*

I answer, that if there should occur such a weighty and unavoidable necessity, in such extremity (as is suppos'd) it seems to me *not altogether unlawful* for the subject to *attempts some thing* without the Knowledge of the King, for necessity (as the Proverb runs) has no Law, yet *I utterly deny that that may be attempted or done which some men suppose Lawful to be attempted and done in such Extremities,*

And to make this plain I affirm in the first place; that *I absolutely deny* such Illegal proceedings (tho' *pro hic et nunc* in such supposed Extremity it may seem Warrantable and Excuseable) are founded upon the Authority or true meaning of our present Maxim, which rightly Interpreted and understood commits the whole Entire care and Pursuit of the Publique safety to the *King himself and to him only*, no way permitting it *to the People in a Monarchy as this is*, in which and under which we may happily Live, if we please.

*Secondly*, I affirm that it is *one thing* to act against the Laws without the knowledge or consent of the King, and that is *another thing* to act against the Laws contrary to his will and express Command; the first may be done by him that intends and minds fitting conditions, the latter may not be done upon any condition whatsoever though never so specious and plausible, though never so popular and seemingly reasonable.

Again I affirm that there are two indispensable conditions religiously and necessarily to be observ'd  
by



by those Subjects that have a mind to execute any purpose for the Publique good without respect to the obligation of the present Laws, and if any Subject shall presume to act any thing for that end without regard first and all along had to these two conditions 'tis an unjustifiable act not to be excused with that popular Plea of necessity; how religiously and sincerely they observed these conditions who were the Authors and Fomenters of the late Civil Wars and confusions in this Kingdom I do not hold my self oblig'd to dispute or consider; I could wish they would be perswaded seriously to consider it and lay it effectually to heart who were personally engag'd in those combustions, and have not yet made their reckonings with the Supream and just Judg of the world, for that most horrid and execrable Rebellion.

Those indispensable conditions are two, first that whosoever applies his Shoulders to the support and stay of the Government shaking and tottering as he pretends, when he does this without the consent of the King first had and obtain'd, *let him be sure* not to act under that pretence *to the prejudice of his King*, it being undoubtedly certain, that it mainly concerns the publique safety *that the Person of the King be ever esteem'd Sacred and his Dignity Preserv'd still inviolate.*

The second condition is this, that nothing be acted or done, or endeavour'd to be acted or done against the Laws and establishments of the Kingdom by any private man without the consent of the King first had and obtain'd, *His consent* ( I mean ) either *Express by word*

*word of Mouth*, if this may seasonably and conveniently be had, or (if he be absent and matters are come to that point and pass that they Absolutely require Immediate Application of means) then his *Consent upon reasonable grounds of Presumption*, and men may then presume reasonably of the Kings consent, when the necessity is so great, so evident, and so pressing, as no sober or prudent person hath any just ground to doubt, but if his Majesty were present upon the spot he would freely grant his Subjects (so acting and so doing without his consent) his Grace and free Pardon. Observing these Two Conditions except some certain let or other arise from another cause (as from some particular circumstances,) I affirm it lawful for Subjects in their Kings and their own defence either against the incursions or invasions of Foreign Enemies or the Conspiracies and Treacheries of Homebred Rebels, to provide for the Common security and the general Welfare of the Kingdom *both King and Subject*, rather then suffer their King and themselves to be irremediesly Ruin'd through a superstitious regard to the words and syllables of particular Laws, which Laws were therefore at first Enacted that they might be subservient not prejudicial to the Common Interest; the reason whereof is plain, because the means are consider'd and used for the acquisition of the end, not the end for the means, and therefore the means ought to be productive of the end, not the end of the means, now the publique safety bearing the nature of the end, the Laws of means, and it being indisputably true, that the end is ever before, and ever more desirable then the means in the purpose and intention of the

the Agent, These two things infallibly follow, *That the common benefit of the Kingdom is to be prefer'd before all Nice Superstitious observation of particular Laws.* And,

Secondly, *that it may reasonably be presum'd that the King apprehends as much who is the principal Agent in the making of Laws, and consequently, that he doth tacitly consent to have those things done or to the doing of such things* (though there be no Addresses made nor Remonstrances sent to him, representing the grievances of the Nation) *which without intrenching into his Prerogative apparent necessity requires to be done or acted for the common good of King and People.* Examples of this nature are frequent in Histories which I spare to produce: as unnecessary, the evidence of this truth being so cleer and manifest as not to need them, only I will instance in one and no more which is very remarkable, and such a one as is deservedly Chronicled for the eternal Honour of that Gentleman who was the Subject of the Story, which hapned in our Kingdom within the memory of divers yet alive: It was the worthy example of the High Sheriff of *Worcester Shire.*

Sir Richard  
walsh.

In every Shire or County throughout England there is an annual or yearly Magistrate appointed for certain particular uses expressed in the Law, we call him High Sheriff, his office was first instituted and he Commission'd by the King to be the Conservator or Preserver of the publique Peace within his Jurisdiction, and that he may be able to execute that High Trust effectually, the Laws of the Land Grant him Power to summon and call out the Train'd-Bands of the County, or to Levy and Raife more and fresh Supplies of men if there be occasion, and to March with-  
in

in the bounds of his Jurisdiction in the Head of these Forces, and to Examine how and in what Posture matters stand, when there is need for this; yet his Authority is so limited that he must not tread without his bounds with such Strength to attend him. After that by the singular goodness and providence of Almighty God that Hellish Popish Plot of the Gunpowder-Treason was unexpectedly and miraculously Discovered (a Treason to be remembred and abominated to all Eternity) a few of the Principal of those Gunpowder-Traytors assembled and met together in the County of *Worcester*, the High Sheriff of which County being a Stout man, and prudent withall, Summons the *Militia* of the County and pursues those Vagabond Conspirators as far as the Laws permitted him, where considering and fearing that if he should too strictly heed the nicety of Law, terms, and cease further pursuit in obedience to, and for fear of the edge and point of those Laws, the Traytors would hereupon undoubtedly escape Justice, and that Vengeance they so justly deserved; hereupon he made hold for once to transgress the Laws and to lead his men into the next County, and so doing he reduc'd those Rebels with their Adherents and Dependents, making them his Prisoners for the present, and afterwards sent them (as the Law prescribes) to their own places, I mean their particular prisons; concluding and that very rationally that he could do no less if he would discharge the duty of a good Patriot, and act as became a Loyal Commissioner or Deputy of his Sovereign. He Judg'd like a wise and good man that an exact observance of every punctilio of Law in his then Circumstances

stances would be highly unseasonable; that it was his duty to mind and obey *the Supreme Law*, to endeavour the security of *his Country, the King, and Kingdom*, and that all considerations ought to give way to the Welfare and Safety of the Publique, King and People. Having by such proceedings perfected his Honest and Loyal purposes according to his hearts desire, he further considered, that by his example the Authority of the Laws (as they were Establish'd) might in time to come be vilified and exposed to the insolencies of ambitious designing disloyal Crafty persons (persons not regarding, or at best not considering, that what that worthy Gentleman did was done out of pure necessity) and withall weighing (for he very well knew) to what heavy Punishments Transgressors of the Laws are obnoxious if Authority should inflict those Punishments which the rigor of the Law in such a case will warrant, the good man thereupon thought it not Prudence to rely upon the inward Testimony of his own Conscience, and to acquiesce in the assurance of his own innocency, and to confide in the Merit of the good Service he had done his King and Country, but resolve he did, and that betimes, wisely to provide not only for his future Personal Security, but also thought himself in duty bound to take all due care that his example might not be a president for other men of bad Principles to justify their Seditious insurrections and Rebellious purposes: in pursuance of which he immediately posts to the King (it was *King James* of happy Memory) and kneeling before his Majesty he humbly beg'd Pardon  
for

for his late, though necessary, violation of his Laws; The King was pleased not only to forgive him that act of Loyal disobedience, but to commend him for his Prudence in this his timely submission, as well as for that his Loyalty in his seasonable prosecution and successful apprehension of *those Pestilent Enemies of the King and Kingdom.*

( By this time I trust *this Axiom, this salus Populi &c.* may be better understood then heretofore it ever was by most that have now read this discourse, which was thus industriously lengthened that the mouths of impertinent and unreasonable men might be stop'd who as *Solomon* speaks *Prov. 30. 33.* wring the Nose 'til they bring forth Blood; I mean who by their violent and extorted interpretation of an Aphorism in it self truly good and Loyal (if I may so speak, I am sure it is such if it be rightly considered and understood) teach it now at last after Sixteen Hundred years standing to countenance Seditions, Rebellions, Civil Wars; &c. to Legitimate and justify the illegal unpardonable Treacheries of turbulent uneasie ungovernable Subjects against their Lawful Prince.

To conclude in few words, the Substance of this whole discourse amounts to thus much; put the case that some certain private persons be dammified in their persons, or Estates, or both; let it be granted, that there occur in the present Kings Reign divers grievances injurious to the Subject, and which loudly call for Cognizance and redress; let it be further granted that these grievances are not remedied, all this will



will not Justifie that private person, or those private persons, *be it one or be they many*, who upon this account shall immediately betake themselves to extraordinary illegal and violent remedies though under this plausible and popular pretence *that otherwise the safety of the people is in danger.*

But on the other hand if there be a well grounded and just fear that the Kingdom may be, or is in danger by the Invasion of Foreign Enemies or the Insurrections of Domestick Rebels and Traytors, unless something be speedily attempted ( it may be ) inconsistent with the Laws of the Government: in such Cases it is lawful for the King by virtue of his Prerogative, it is lawful for the Subject upon an expresse Declaration, or a rational presumption of the Kings consent ( and what will make it rational, I have shew'd ) I say it is lawful for the Subject in such an extremity to recede from all nice and curious interpretation of particular Laws, provided he mean honestly, and as becomes a Loyal Subject and a good Patriot, onely to defend his Country, and to promote (by such endeavours and attempts) the safety and welfare of the King and people *as that which is in Truth (and nothing but that) the Supreme Paramount Law.*

F

Salutem

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**S**alutem Populi ( *excluso Rege* )  
supremam esse Legem quis dixerit  
nisi aut Fatuus aut Impostor? Fatuus  
si ipse sibi sic dicenti fidem habeat, si  
non habeat, Impostor. Sand.

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### ERRATA.

Page 6. l. 3. r. c'en. l. 24. r. Villains. p. 9. l. 4. r. -tween. p. 22.  
l. 21. r. Impostor.

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**FINIS.**

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